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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/553,112	07/25/2006	Martin Kieren	10191/4153	1892
26646 7590 07/28/2008 KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004				
EXAMINER NGUYEN, CHUONG P				
ART UNIT 3663		PAPER NUMBER		
MAIL DATE 07/28/2008		DELIVERY MODE PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/553,112

**Applicant(s)**

KIEREN ET AL.

**Examiner**

Chuong P. Nguyen

**Art Unit**

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**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 May 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 12-25 is/are pending in the application.
- 4a) Of the above claim(s) 20-25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 July 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election without traverse of invention I and species *a, b, c* in the reply filed on 05/07/2008 is acknowledged.
2. Claims 20-25 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected inventions and species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 05/07/2008.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 12 and 14-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Onogi (US 6,304,805).

Regarding claim 12, Onogi discloses in Fig 3, 5 a method for a rollover stabilization of a vehicle in a critical driving situation, comprising: measuring different driving-condition variables by a sensor system (i.e. 110, 310 - read detection signal from lateral acceleration sensor, wheel speed sensors, yaw rate sensor, steering angle sensor) (col 16, line 6+; col 21, line 4+; col 23, line 1+; col 25, line 56+); causing an actuator to intervene with a rollover-stabilization algorithm in a vehicle operation in a situation

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critical to rollover, in order to stabilize the vehicle (i.e. 180, 190, 210, 400, 410, 430) (col 18, lines 22-67; col 23, line 57 – col 24, line 8); and estimating information from a relationship between a steering variable and a roll variable, the information relating to a rollover tendency of the vehicle and being taken into account in a scope of the rollover stabilization (Fig 14-15; col 25, line 56 – col 26, line 56; col 39, line 50 – col 41, line 21).

Regarding claim 14, Onogi discloses the steering variable includes a steering angle (col 8, line 47-65; col 25, line 56 – col 26, line 56).

Regarding claim 15, Onogi discloses in Fig 3, 5 the roll variable includes a roll rate (i.e. 130, 350) (Abstract; col 16, lines 26-30; col 19, line 64+; col 23, line 24+).

Regarding claim 16, Onogi discloses in Fig 3, 5 the step of changing, as a function of the rollover tendency, a control threshold of the rollover-stabilization algorithm (i.e. 160, 200, 380, 420) (col 18, lines 10-19, line 55 – col 19, line 7).

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not

commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 13 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Onogi as applied to claim 12 above, and further in view of Takumi (JP 631196918).

Regarding claim 13, Onogi disclose the invention except for ascertaining one of an indicator variable and one of a characteristic property and a variable of the rollover stabilization as a function of the rollover tendency, wherein: a stabilization action is one of enabled and deactivated in accordance with the indicator variable. Takumi teaches in the same field of endeavor such step of ascertaining one of an indicator variable and one of a characteristic property and a variable of the rollover stabilization as a function of the rollover tendency, wherein: a stabilization action is one of enabled and deactivated in accordance with the indicator variable (Abstract). It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate such step of ascertaining one of an indicator variable and one of a characteristic property and a variable of the rollover stabilization as a function of the rollover tendency, wherein: a stabilization action is one of enabled and deactivated in accordance with the indicator variable as taught by Takumi in the method of Onogi because it does no more than yield predictable results of detecting and stabilizing a vehicle in rollover situation since it has been held that the combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results (MPEP 2143).

Regarding claim 17, Onogi discloses the invention except for ascertaining, from the steering variable and the roll variable, a rollover indicator indicating the rollover

tendency of the vehicle. Takumi teaches in the same field of endeavor such step of ascertaining, from the steering variable and the roll variable, a rollover indicator indicating the rollover tendency of the vehicle. It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate such step of ascertaining, from the steering variable and the roll variable, a rollover indicator indicating the rollover tendency of the vehicle as taught by Takumi in the method of Onogi because it does no more than yield predictable results of detecting and stabilizing a vehicle in rollover situation since it has been held that the combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results (MPEP 2143).

8. Claims 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Onogi modified by Takumi as applied to claim 17 above, and further in view of Ehlbeck et al (US 6,498,976).

Regarding claim 18, Onogi modified by Takumi do not explicitly disclose the rollover indicator is determined by a fuzzy-information processing unit. However, since Applicant described in the disclosure that such fuzzy-information processing unit is implemented in the form of software (specification – page 5, lines 17-18); thus, it is well known in the art of experimentation that one create his or her own software / program to operate a system. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the method of determining the rollover indicator utilizing a fuzzy-information processing unit in the method of Onogi modified by Takumi, since it is well known in the art to create his or her own software / program to operate a system. In addition, Ehlbeck et al teach in the same field of

endeavor in Fig 10 such rollover indicator is determined by a fuzzy-information processing unit (i.e. col 20, line 38+; col 21, lines 18-48). It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate such rollover indicator as taught by Ehlbeck et al in the method of Onogi modified by Takumi because it does no more than yield predictable results of detecting and stabilizing a vehicle in rollover situation since it has been held that the combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results (MPEP 2143).

Regarding claim 19, Onogi modified by Takumi do not explicitly disclose weighting the rollover indicator by a weighting function indicating a quality of an estimation of the rollover indicator. Ehlbeck et al teach in the same field of endeavor in Fig 7, 9, 10 such step of weighting the rollover indicator by a weighting function indicating a quality of an estimation of the rollover indicator (col 9, line 46 – col 10, line 46; col 21, line 18 – col 23, line 23). It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate such step of weighting the rollover indicator by a weighting function indicating a quality of an estimation of the rollover indicator as taught by Ehlbeck et al in the method of Onogi modified by Takumi because it does no more than yield predictable results of detecting and stabilizing a vehicle in rollover situation since it has been held that the combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results (MPEP 2143).

9. While patent drawings are not drawn to scale, relationships clearly shown in the drawings of a reference patent cannot be disregarded in determining the patentability of claims. See In re Mraz, 59 CCPA 866, 455 F.2d 1069, 173 USPQ 25 (1972).

### *Conclusion*

10. The cited prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chuong P. Nguyen whose telephone number is 571-272-3445. The examiner can normally be reached on M-F, 8:00 - 5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Keith can be reached on 571-272-6878. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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/Jack W. Keith/

Supervisory Patent Examiner, Art Unit 3663